

### **REMARKS**

Please note that claim 7 has been amended to recite the subject matter of claim 10 where the element is magnesium or zinc, and that claim 10 has been canceled.

#### **Claims 7-11**

Claims 7-11 have been rejected as being anticipated by USP 6,447,957 to *Sakamoto et al.* "as evidenced by" *Chemical Composition of Aluminum Alloys*.

The *Sakamoto et al.* patent is cited for the disclosure of a metal-lathe shaped (5:35-65) lithium secondary battery comprising positive and negative electrodes and non-aqueous electrolyte. The positive electrode comprises a positive electrode current collector made of JIS 3003 which is an aluminum-based alloy having 0.05 to 0.2 Mn and 0.00-1.50 Cu.

In view of the above amendment of claim 7, Applicants submit that their claimed battery is patentably distinguishable over the references. There is nothing in the references to suggest the use of magnesium or zinc.

#### **Claims 1-6**

Claims 1, 2 and 4-6 have been rejected under 35 U.S.C. §103 as being obvious over USP 6,447,957 to *Sakamoto et al.* in view of US 2003/0155509 A1 to *Dockus et al.*

***Sakamoto et al.*** is cited for disclosing a lithium secondary battery having positive and negative electrodes and a non-aqueous electrolyte. The positive electrode includes a positive electrode current collector made of aluminum or aluminum alloy (6:46-54). ***Sakamoto et al.*** is also cited for disclosing an aluminum-manganese based alloy (5:37-65) for claim 2 and a cobalt-lithium oxide positive electrode material (8:23-34) for claim 6. ***Dockus et al.*** is cited for disclosing certain stainless steels, among them, the specific ferrite and austenitic types recited in the pending claims.

On page 3 of the Action, the Examiner argues that the aluminum and aluminum alloy of ***Sakamoto et al.*** and the stainless steels of ***Dockus et al.*** are disclosed for the same purpose. The Examiner, therefore, concludes that it would be *prima facie* obvious to combine those two metals for the positive electrode connecting member.

Applicants attach hereto an English translation of their Japanese priority document, completing their claim to a February 2001 and removing the November 2001 ***Dockus et al.*** patent as a reference.

Additionally, Applicants rely on the experimental data of the specification. They have found that superior capacity retention rates are achieved by combining aluminum and the claimed stainless steel, as shown by the data in Table 1 on page 26 of the specification. Even if ***Sakamoto et al.*** and ***Dockus et al.*** might suggest replacing aluminum with the claimed stainless steel or, *vice versa*, there is no suggestion in the references to *combine* aluminum and the claimed stainless steel. The attention of the Examiner is directed to Example A1 and Comparative Example A1, and to Example A2

Application No.: 10/040,433  
Amendment dated November 14, 2003  
Reply to Office Action of September 29, 2003

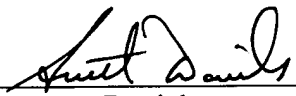
and Comparative Example A2, which demonstrate that unexpectedly superior properties are obtained with the claimed combination.

For at least the foregoing reasons, it is believed that this application is now in condition for allowance. If, for any reason, it is believed that this application is not in condition for allowance, Examiner is encouraged to contact the Applicants' undersigned attorney at the telephone number below to expedite the disposition of this case.

In the event that this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

By:   
Scott M. Daniels  
Reg. No.: 32,562  
Attorney for Applicants  
Tel: (202) 822-1100  
Fax: (202) 822-1111

Attachment: Verified English Translation of Japanese Patent No. 2001-36260

SMD/rer  
Attorney Docket No.: **020003**  
Customer No: 38834